

CHAPTER 251

HEALTH AND ENVIRONMENT

SENATE BILL 10-194

BY SENATOR(S) Boyd, Newell, Williams;
also REPRESENTATIVE(S) Riesberg, Apuan, Fischer, Gerou, Labuda, Looper, Pommer, Schafer S., Soper, Todd.

AN ACT

CONCERNING THE REQUIREMENT THAT ENTITIES OPERATING PURSUANT TO CERTAIN FEDERAL WAIVERS THAT PROVIDE CERTAIN SERVICES TO PERSONS WITH DEVELOPMENTAL DISABILITIES OBTAIN LICENSURE AS HOME CARE AGENCIES.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. 25-27.5-102, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS to read:

25-27.5-102. Definitions. As used in this article, unless the context otherwise requires:

(1.5) "COMMUNITY CENTERED BOARD" HAS THE MEANING SET FORTH IN SECTION 27-10.5-102, C.R.S.

(6.3) "QUALIFIED EARLY INTERVENTION SERVICE PROVIDER" HAS THE MEANING SET FORTH IN SECTION 27-10.5-702, C.R.S.

(6.7) "SERVICE AGENCY" HAS THE MEANING SET FORTH IN SECTION 27-10.5-102, C.R.S.

SECTION 2. 25-27.5-102 (3) (b) (VII) and (3) (b) (VIII), Colorado Revised Statutes, are amended, and the said 25-27.5-102 (3) (b) is further amended BY THE ADDITION OF A NEW SUBPARAGRAPH, to read:

25-27.5-102. Definitions. As used in this article, unless the context otherwise requires:

(3) (b) "Home care agency" does not include:

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

(VII) Subject to the requirements of section 25-27.5-103 (3), a facility otherwise licensed by the department; ~~or~~

(VIII) A home care placement agency as defined in subsection (5) of this section;
OR

(IX) SERVICES PROVIDED BY A QUALIFIED EARLY INTERVENTION SERVICE PROVIDER AND OVERSEEN JOINTLY BY THE DEPARTMENT OF EDUCATION AND THE DEPARTMENT OF HUMAN SERVICES.

SECTION 3. 25-27.5-103, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SUBSECTION to read:

25-27.5-103. License required - civil and criminal penalties.
(1.5)(a) NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, BY MARCH 1, 2011, THE FOLLOWING PROVIDERS OF SKILLED HOME HEALTH SERVICES OR IN-HOME PERSONAL CARE SERVICES SHALL APPLY FOR LICENSURE AS A HOME CARE AGENCY TO THE DEPARTMENT:

(I) COMMUNITY CENTERED BOARDS DESIGNATED PURSUANT TO SECTION 27-10.5-105, C.R.S.; AND

(II) SERVICE AGENCIES THAT HAVE RECEIVED PROGRAM APPROVAL FROM THE DEPARTMENT OF HUMAN SERVICES AS A DEVELOPMENTAL DISABILITIES SERVICE AGENCY UNDER RULES PROMULGATED BY THE DEPARTMENT OF HUMAN SERVICES THAT ARE PROVIDING SERVICES PURSUANT TO THE SUPPORTED LIVING SERVICES WAIVER OR THE CHILDREN'S EXTENSIVE SUPPORT WAIVER OF THE HOME- AND COMMUNITY-BASED SERVICES WAIVERS ADMINISTERED BY THE DEPARTMENT OF HEALTH CARE POLICY AND FINANCING AND THE DEPARTMENT OF HUMAN SERVICES UNDER PART 4 OF ARTICLE 6 OF TITLE 25.5, C.R.S.

(b) ON OR AFTER SEPTEMBER 1, 2011, IT IS UNLAWFUL FOR ANY COMMUNITY CENTERED BOARD THAT IS DIRECTLY PROVIDING HOME CARE SERVICES, OR ANY SERVICE AGENCY AS DESCRIBED IN PARAGRAPH (a) OF THIS SUBSECTION (1.5), TO CONDUCT OR MAINTAIN A HOME CARE AGENCY THAT PROVIDES SKILLED HOME HEALTH SERVICES OR IN-HOME PERSONAL CARE SERVICES WITHOUT HAVING OBTAINED A LICENSE THEREFOR FROM THE DEPARTMENT. ANY PERSON WHO VIOLATES THIS PROVISION IS GUILTY OF A MISDEMEANOR AND IS SUBJECT TO THE CIVIL AND CRIMINAL PENALTIES DESCRIBED IN PARAGRAPHS (a) AND (b) OF SUBSECTION (1) OF THIS SECTION. NOTHING IN THIS SECTION RELIEVES AN ENTITY THAT CONTRACTS OR ARRANGES WITH A COMMUNITY CENTERED BOARD OR SERVICE AGENCY, AND THAT MEETS THE DEFINITION OF A "HOME CARE AGENCY" UNDER SECTION 25-27.5-102, FROM THE ENTITY'S OBLIGATION TO APPLY FOR AND OPERATE UNDER A LICENSE IN ACCORDANCE WITH THIS ARTICLE.

SECTION 4. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: May 21, 2010